

United States District Court

EASTERN DISTRICT OF TEXAS

SHERMAN DIVISION

UNITED STATES OF AMERICA

§

§

vs.

§

Case No. 4:05CR7

§

(Judge Schell/Judge Bush)

JOSEPH W. BURNETT

§

REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on September 28, 2006 to determine whether the Defendant violated his supervised release. The Defendant was represented by Denise Benson. The Government was represented by Ernest Gonzalez.

On June 22, 2005, the Defendant was sentenced by the Honorable United States District Judge Richard A. Schell to 6 months imprisonment followed by a term of 26 months of supervised release, \$8,130.00 in restitution, and a \$100.00 special assessment after pleading guilty to the offense of Take and Carry Away Personal Property of Another Value in Excess of \$1,000. On September 28, 2005, Defendant completed his period of imprisonment and began service of his supervised term.

On May 20, 2006, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender Under Supervision. The petition asserted that the Defendant violated the following conditions: (1) Defendant shall answer truthfully all inquiries by

the probation officer and follow the instructions of the probation officer; (2) Defendant shall notify the probation officer 10 days prior to any change of residence or employment; (3) Defendant shall make restitution in the amount of \$8,130.00.

The petition alleges that the Defendant committed the following acts: (1) Defendant failed to report as instructed and provide a DNA sample on March 30 and April 13, 2005; (2) Defendant absconded from supervision on or before April 1, 2005; and (3) Defendant failed to make a restitution payment in January, February, and March 2006.

Prior to the Government putting on its case, the Defendant entered a plea of true to the above listed violations. At the hearing, the Court recommended that the Defendant's supervised release be revoked.

RECOMMENDATION

The Court recommends that the District Court revoke Defendant's supervised release. Pursuant to the Sentencing Reform Act of 1984, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of 9 months, with credit given for time served prior to the final revocation hearing, and with no supervised release to follow.

Signed this 2 day of ^{October}~~September~~, 2006.

A handwritten signature in black ink, appearing to read "Don D. Bush", is written over a horizontal line.

DON D. BUSH

UNITED STATES MAGISTRATE JUDGE